

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KIMBERLY JEAN BURSK
a.k.a. Kim Jean Saal
744 Via Otono
San Clemente, CA 92672

Registered Nurse License No. 426962

Respondent

Case No. 2007-270

OAH No. L-2007070283

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on December 29, 2007

IT IS SO ORDERED November 29, 2007



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA SCHNEIDER
Supervising Deputy Attorney General
3 SUSAN FITZGERALD, State Bar No. 112278
Deputy Attorney General
4 California Department of Justice
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9 Attorneys for Complainant

10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2007-270

13 KIMBERLY JEAN BURSK
14 a.k.a. KIM JEAN SAAL
744 Via Otono
15 San Clemente, CA 92672

OAH No. L-2007070283

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Registered Nurse License No. 426962

17 Respondent.
18

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 PARTIES

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the
23 Board of Registered Nursing. She brought this action solely in her official capacity and is
24 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
25 by Susan Fitzgerald, Deputy Attorney General.

26 2. Respondent Kimberly Jean Bursk (Respondent) is represented in this proceeding
27 by attorney Ron Cordova, Esq., whose address is 16520 Bake Parkway, Suite 280, Irvine, CA
28 92618.

3. On or about June 30, 1988, the Board of Registered Nursing issued Registered Nurse License No. 426962 to Kimberly Jean Bursk, a.k.a. Kim Jean Saal (Respondent). The license was in full force and effect at all times relevant to the charges brought in Accusation No. 2007-270 and will expire on June 30, 2008, unless renewed.

JURISDICTION

4. Accusation No. 2007-270 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent on April 26, 2007. Respondent timely filed her Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 2007-270 is attached as exhibit A and incorporated herein by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, discussed with counsel, and fully understands the charges and allegations in Accusation No. 2007-270. Respondent has also carefully read, discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each charge and allegation in Accusation No. 2007-270.

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1 9. Respondent agrees that her registered nurse license is subject to discipline and she
2 agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order
3 below.

4 CIRCUMSTANCES IN MITIGATION

5 10. Respondent has never been the subject of any other disciplinary action by the
6 Board. She is admitting responsibility at an early stage in the proceedings.

7 RESERVATION

8 11. The admissions made by Respondent herein are only for the purposes of this
9 proceeding, or any other proceedings in which the Board of Registered Nursing or other
10 professional licensing agency is involved, and shall not be admissible in any other criminal or
11 civil proceeding.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the Board of Registered Nursing.
14 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
15 Registered Nursing may communicate directly with the Board regarding this stipulation and
16 settlement, without notice to or participation by Respondent or her counsel. By signing the
17 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
21 action between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 OTHER MATTERS

24 13. Costs of investigation and enforcement in this matter total to \$11,437.50 through
25 September 24, 2007.

26 14. The parties understand and agree that facsimile copies of this Stipulated
27 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
28 force and effect as the originals.

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1 Upon successful completion of probation, Respondent's license shall be fully restored.

2 3. **Report in Person.** Respondent, during the period of probation, shall appear in
3 person at interviews/meetings as directed by the Board or its designated representatives.

4 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
5 practice as a registered nurse outside of California shall not apply toward a reduction of this
6 probation time period. Respondent's probation is tolled, if and when she resides outside of
7 California. Respondent must provide written notice to the Board within 15 days of any change of
8 residency or practice outside the state, and within 30 days prior to re-establishing residency or
9 returning to practice in this state.

10 Respondent shall provide a list of all states and territories where she has ever been
11 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
12 provide information regarding the status of each license and any changes in such license status
13 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
14 new nursing license during the term of probation.

15 5. **Submit Written Reports.** Respondent, during the period of probation, shall
16 submit or cause to be submitted such written reports/declarations and verification of actions
17 under penalty of perjury, as required by the Board. These reports/declarations shall contain
18 statements relative to Respondent's compliance with all the conditions of the Board's Probation
19 Program. Respondent shall immediately execute all release of information forms as may be
20 required by the Board or its representatives.

21 Respondent shall provide a copy of this Decision to the nursing regulatory agency in
22 every state and territory in which she has a registered nurse license.

23 6. **Function as a Registered Nurse.** Respondent, during the period of probation,
24 shall engage in the practice of registered nursing in California for a minimum of 24 hours per
25 week for 6 consecutive months or as determined by the Board.

26 For purposes of compliance with the section, "engage in the practice of registered
27 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
28 work in any non-direct patient care position that requires licensure as a registered nurse.

1 The Board may require that advanced practice nurses engage in advanced practice nursing
2 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

3 If Respondent has not complied with this condition during the probationary term, and
4 Respondent has presented sufficient documentation of her good faith efforts to comply with this
5 condition, and if no other conditions have been violated, the Board, in its discretion, may grant
6 an extension of Respondent's probation period up to one year without further hearing in order to
7 comply with this condition. During the one year extension, all original conditions of probation
8 shall apply.

9 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
10 prior approval from the Board before commencing or continuing any employment, paid or
11 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
12 performance evaluations and other employment related reports as a registered nurse upon request
13 of the Board.

14 Respondent shall provide a copy of this Decision to her employer and immediate
15 supervisors prior to commencement of any nursing or other health care related employment.

16 In addition to the above, Respondent shall notify the Board in writing within seventy-two
17 (72) hours after she obtains any nursing or other health care related employment. Respondent
18 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
19 separated, regardless of cause, from any nursing, or other health care related employment with a
20 full explanation of the circumstances surrounding the termination or separation.

21 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
22 Respondent's level of supervision and/or collaboration before commencing or continuing any
23 employment as a registered nurse, or education and training that includes patient care.

24 Respondent shall practice only under the direct supervision of a registered nurse in good
25 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
26 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
27 approved.

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Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

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1 Respondent shall work only on a regularly assigned, identified and predetermined
2 worksite(s) and shall not work in a float capacity.

3 If Respondent is working or intends to work in excess of 40 hours per week, the Board
4 may request documentation to determine whether there should be restrictions on the hours of
5 work.

6 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll
7 and successfully complete a course(s) relevant to the practice of registered nursing no later than
8 six months prior to the end of her probationary term.

9 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
10 Respondent shall submit to the Board the original transcripts or certificates of completion for the
11 above required course(s). The Board shall return the original documents to Respondent after
12 photocopying them for its records.

13 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
14 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
15 amount of \$11,437.50. Respondent shall be permitted to pay these costs in a payment plan
16 approved by the Board, with payments to be completed no later than three months prior to the
17 end of the probation term.

18 If Respondent has not complied with this condition during the probationary term, and
19 Respondent has presented sufficient documentation of her good faith efforts to comply with this
20 condition, and if no other conditions have been violated, the Board, in its discretion, may grant
21 an extension of Respondent's probation period up to one year without further hearing in order to
22 comply with this condition. During the one year extension, all original conditions of probation
23 will apply.

24 12. **Violation of Probation.** If Respondent violates the conditions of her probation,
25 the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay
26 order and impose the stayed discipline (revocation/suspension) of Respondent's license.

27 If during the period of probation, an accusation or petition to revoke probation has been
28 filed against Respondent's license or the Attorney General's Office has been requested to prepare

1 an accusation or petition to revoke probation against Respondent's license, the probationary
2 period shall automatically be extended and shall not expire until the accusation or petition has
3 been acted upon by the Board.

4 13. **License Surrender.** During Respondent's term of probation, if she ceases
5 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
6 probation, Respondent may surrender her license to the Board. The Board reserves the right to
7 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
8 take any other action deemed appropriate and reasonable under the circumstances, without
9 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
10 will no longer be subject to the conditions of probation.

11 Surrender of Respondent's license shall be considered a disciplinary action and shall
12 become a part of Respondent's license history with the Board. A registered nurse whose license
13 has been surrendered may petition the Board for reinstatement no sooner than the following
14 minimum periods from the effective date of the disciplinary decision:

15 (1) Two years for reinstatement of a license that was surrendered for any reason other
16 than a mental or physical illness; or

17 (2) One year for a license surrendered for a mental or physical illness.

18 14. **Physical Examination.** Within 45 days of the effective date of this Decision,
19 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
20 assistant, who is approved by the Board before the assessment is performed, submit an
21 assessment of the Respondent's physical condition and capability to perform the duties of a
22 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
23 medically determined, a recommended treatment program will be instituted and followed by the
24 Respondent with the physician, nurse practitioner, or physician assistant providing written
25 reports to the Board on forms provided by the Board.

26 If Respondent is determined to be unable to practice safely as a registered nurse, the
27 licensed physician, nurse practitioner, or physician assistant making this determination shall
28 immediately notify the Board and Respondent by telephone, and the Board shall request that the

1 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
2 shall immediately cease practice and shall not resume practice until notified by the Board.
3 During this period of suspension, Respondent shall not engage in any practice for which a license
4 issued by the Board is required until the Board has notified Respondent that a medical
5 determination permits Respondent to resume practice. This period of suspension will not apply
6 to the reduction of this probationary time period.

7 If Respondent fails to have the above assessment submitted to the Board within the 45-
8 day requirement, Respondent shall immediately cease practice and shall not resume practice until
9 notified by the Board. This period of suspension will not apply to the reduction of this
10 probationary time period. The Board may waive or postpone this suspension only if significant,
11 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
12 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
13 Only one such waiver or extension may be permitted.

14 **15. Participate in Treatment/Rehabilitation Program for Chemical Dependence.**
15 Respondent, at her expense, shall successfully complete during the probationary period or shall
16 have successfully completed prior to commencement of probation a Board-approved
17 treatment/rehabilitation program of at least six months duration. As required, reports shall be
18 submitted by the program on forms provided by the Board. If Respondent has not completed a
19 Board-approved treatment/rehabilitation program prior to commencement of probation,
20 Respondent, within 45 days from the effective date of the decision, shall be enrolled in a
21 program. If a program is not successfully completed within the first nine months of probation,
22 the Board shall consider Respondent in violation of probation.

23 Based on Board recommendation, each week Respondent shall be required to attend at
24 least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
25 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
26 by the Board. If a nurse support group is not available, an additional 12-step meeting or
27 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
28 such attendance to the Board during the entire period of probation. Respondent shall continue

1 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
2 mental health examiner and/or other ongoing recovery groups.

3 **16. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent shall
4 completely abstain from the possession, injection or consumption by any route of all controlled
5 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same
6 are ordered by a health care professional legally authorized to do so as part of documented
7 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)
8 days, by the prescribing health professional, a report identifying the medication, dosage, the date
9 the medication was prescribed, the Respondent's prognosis, the date the medication will no
10 longer be required, and the effect on the recovery plan, if appropriate.

11 Respondent shall identify for the Board a single physician, nurse practitioner or physician
12 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
13 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
14 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
15 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
16 considered addictive have been prescribed, the report shall identify a program for the time
17 limited use of any such substances.

18 The Board may require the single coordinating physician, nurse practitioner, or physician
19 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
20 medicine.

21 **17. Submit to Tests and Samples.** Respondent, at her expense, shall participate in a
22 random, biological fluid testing or a drug screening program which the Board approves. The
23 length of time and frequency will be subject to approval by the Board. Respondent is responsible
24 for keeping the Board informed of Respondent's current telephone number at all times.
25 Respondent shall also ensure that messages may be left at the telephone number when she is not
26 available and ensure that reports are submitted directly by the testing agency to the Board, as
27 directed. Any confirmed positive finding shall be reported immediately to the Board by the
28 program and Respondent shall be considered in violation of probation.

1 In addition, Respondent, at any time during the period of probation, shall fully cooperate
2 with the Board or any of its representatives, and shall, when requested, submit to such tests and
3 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
4 hypnotics, dangerous drugs, or other controlled substances.

5 If Respondent has a positive drug screen for any substance not legally authorized and not
6 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
7 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
8 practice pending the final decision on the petition to revoke probation or the accusation. This
9 period of suspension will not apply to the reduction of this probationary time period.

10 If Respondent fails to participate in a random, biological fluid testing or drug screening
11 program within the specified time frame, Respondent shall immediately cease practice and shall
12 not resume practice until notified by the Board. After taking into account documented evidence
13 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
14 suspend Respondent from practice pending the final decision on the petition to revoke probation
15 or the accusation. This period of suspension will not apply to the reduction of this probationary
16 time period.

17 **18. Mental Health Examination.** Respondent shall, within 45 days of the effective
18 date of this Decision, have a mental health examination including psychological testing as
19 appropriate to determine her capability to perform the duties of a registered nurse. The
20 examination will be performed by a psychiatrist, psychologist or other licensed mental health
21 practitioner approved by the Board. The examining mental health practitioner will submit a
22 written report of that assessment and recommendations to the Board. All costs are the
23 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
24 result of the mental health examination will be instituted and followed by Respondent.

25 If Respondent is determined to be unable to practice safely as a registered nurse, the
26 licensed mental health care practitioner making this determination shall immediately notify the
27 Board and Respondent by telephone, and the Board shall request that the Attorney General's
28 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease

1 practice and may not resume practice until notified by the Board. During this period of
2 suspension, Respondent shall not engage in any practice for which a license issued by the Board
3 is required, until the Board has notified Respondent that a mental health determination permits
4 Respondent to resume practice. This period of suspension will not apply to the reduction of this
5 probationary time period.

6 If Respondent fails to have the above assessment submitted to the Board within the 45-
7 day requirement, Respondent shall immediately cease practice and shall not resume practice until
8 notified by the Board. This period of suspension will not apply to the reduction of this
9 probationary time period. The Board may waive or postpone this suspension only if significant,
10 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
11 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
12 Only one such waiver or extension may be permitted.

13 19. **Therapy or Counseling Program.** Respondent, at her expense, shall participate
14 in an on-going counseling program until such time as the Board releases her from this
15 requirement and only upon the recommendation of the counselor. Written progress reports from
16 the counselor will be required at various intervals.

17 ACCEPTANCE

18 I have carefully read the above Stipulated Settlement and Disciplinary Order and have
19 fully discussed it with my attorney, Ron Cordova, Esq.. I understand the stipulation and the
20 effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and
21 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
22 Decision and Order of the Board of Registered Nursing.

23 DATED: 10/3/2007.

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25 
26 KIMBERLY JEAN BURSK
Respondent

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1 I have read and fully discussed with Respondent Kimberly Jean Bursk the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary
3 Order. I approve its form and content.

4 DATED: 3 October 2007

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6 
7 RON CORDOVA, ESQ.
8 Attorney for Respondent

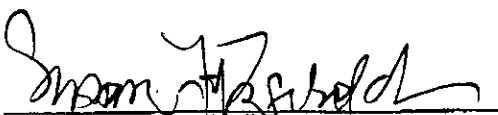
9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
11 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
12 Affairs.

13 DATED: October 4, 2007

14
15 EDMUND G. BROWN JR., Attorney General
16 of the State of California

17 LINDA SCHNEIDER
18 Supervising Deputy Attorney General

19 
20 SUSAN FITZGERALD
21 Deputy Attorney General

22 Attorneys for Complainant
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Exhibit A

Accusation No. 2007-270

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARGARET A. LAFKO
Supervising Deputy Attorney General
3 SUSAN L. FITZGERALD, State Bar No. 112278
Deputy Attorney General
4 California Department of Justice
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8

Attorneys for Complainant
9

10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2007-270

14 KIM KIMBERLY JEAN SAAL BURSK, aka
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15 KIMBERLY JEAN BURSK
744 Via Otono
16 San Clemente, CA 92672

ACCUSATION

17 Registered Nurse License No. 426962,

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

- 21 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
23 Department of Consumer Affairs.
- 24 2. On or about June 30, 1988, the Board of Registered Nursing ("Board")
25 issued Registered Nurse License Number 426962 to Kim Kimberly Jean Saal Bursk, also known
26 as Kim Jean Saal, also known as Kimberly Jean Bursk ("Respondent"). The license was in
27 full force and effect at all times relevant to the charges brought herein and will expire on
28 June 30, 2008, unless renewed.

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1 (e) Falsify, or make grossly incorrect, grossly inconsistent,
2 or unintelligible entries in any hospital, patient, or other record
3 pertaining to the substances described in subdivision (a) of this
4 section.

6. Code section 4022 provides:

5 'Dangerous drug' or 'dangerous device' means any
6 drug or device unsafe for self-use in humans or animals,
7 and includes the following:

8 (a) Any drug that bears the legend: 'Caution: federal
9 law prohibits dispensing without prescription,' 'Rx only,' or
10 words of similar import.

11 (b) Any device that bears the statement: 'Caution:
12 federal law restricts this device to sale by or on the order of a
13 _____,' 'Rx only,' or words of similar import, the blank
14 to be filled in with the designation of the practitioner licensed
15 to use or order use of the device.

16 (c) Any other drug or device that by federal or state
17 law can be lawfully dispensed only on prescription or furnished
18 pursuant to Section 4006.

7. Code section 4060 provides:

15 No person shall possess any controlled substance, except
16 that furnished to a person upon the prescription of a physician,
17 dentist, podiatrist, optometrist, veterinarian, or naturopathic
18 doctor pursuant to Section 3640.7, or furnished pursuant to a
19 drug order issued by a certified nurse-midwife pursuant to
20 Section 2746.51, a nurse practitioner pursuant to Section 2836.1,
21 a physician assistant pursuant to Section 3502.1, a naturopathic
22 doctor pursuant to Section 3640.5, or a pharmacist pursuant
23 to either subparagraph (D) of paragraph (4) of, or clause (iv)
24 of subparagraph (A) of paragraph (5) of, subdivision (a) of
25 Section 4052. This section shall not apply to the possession
26 of any controlled substance by a manufacturer, wholesaler,
27 pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
28 veterinarian, naturopathic doctor, certified nurse- midwife, nurse
practitioner, or physician assistant, when in stock in containers
correctly labeled with the name and address of the supplier
or producer.

8. Health and Safety Code section 11173, subdivision (a), provides:

25 (a) No person shall obtain or attempt to obtain controlled
26 substances, or procure or attempt to procure the administration of
27 or prescription for controlled substances, (1) by fraud, deceit,
28 misrepresentation, or subterfuge; or (2) by the concealment of a
material fact.

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9. Code section 125.3 provides that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS

10. “Demerol” is a compound containing Pethidine or Meperidine Hydrochloride, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055 and a dangerous drug within the meaning of Code section 4022.

11. “Dilaudid” is a compound containing Hydromorphone, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, and a dangerous drug within the meaning of Code section 4022.

12. "Morphine" is a Schedule II controlled substance pursuant to Health and Safety Code section 11055 and a dangerous drug within the meaning of Code section 4022.

Background

13. From in and during 1991, until on or about July 13, 2004, Respondent was employed as a registered nurse at South Coast Medical Center, located in Laguna Beach, California. On or about April 15, 2002, while on duty at South Coast Medical Center, Respondent experienced what was later described as a syncope and/or Gran Mal seizure, and during an examination, track marks were discovered on her arms. Respondent later admitted that she had diverted controlled substances from South Coast Medical Center and self-administered them.

14. Respondent entered the Board's Diversion Program in 2002. In July 2004 she was cleared by the Board's Diversion Program to return to work. She returned to work at South Coast Medical Center that same month and began diverting controlled substances from her assigned patients and self-administering those substances while on duty.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(False, Grossly Incorrect, or Grossly Inconsistent Record Entries)**

3 15. Respondent's license is subject to discipline for unprofessional conduct under
4 Code section 2762, subdivision (e), in that while on duty at South Coast Medical Center,
5 Respondent made false, grossly incorrect, or grossly inconsistent entries in hospital, patient, or
6 other records pertaining to controlled substances, as follows:

7 a. Patient N (#4214813). On or about July 7, 2004, Respondent obtained 2 mg. doses of
8 Dilaudid for administration to Patient #4214813 at approximately 1430 hours, 1630 hours, 1715
9 hours, and 1815 hours, for a total of four 2 mg doses of Dilaudid. Hospital records reflect that
10 Patient #4214813 had been transferred from Respondent's assigned duty location effective at
11 1600 hours, July 7, 2004. Respondent failed to document or otherwise properly account for the
12 disposition of the four 2 mg doses Dilaudid in any hospital or patient record.

13 b. Patient L (#4123600).

14 1. On or about July 10, 2004, at approximately 0730 hours, without a physician's order
15 to do so, Respondent obtained a 4 mg dose of Morphine for administration to Patient #4123600.
16 Respondent failed to document or otherwise properly account for the disposition of the 4 mg
17 dose of Morphine in any hospital or patient record.

18 2. On or about July 11, 2004, at approximately 1400 hours, Respondent obtained a 50 mg
19 dose of Demerol for administration to Patient #4123600. Respondent failed to document or
20 otherwise properly account for the disposition of the 50 mg dose of Demerol in any hospital or
21 patient record.

22 c. Patient A (#4225801).

23 1. On or about July 13, 2004, at approximately 0730 hours, Respondent obtained a 50 mg
24 dose of Demerol for administration to Patient #4225801. Respondent failed to document or
25 otherwise properly account for the disposition of the 50 mg dose of Demerol in any hospital or
26 patient record.

27 2. On or about July 13, 2004, at approximately 1430 hours, Respondent obtained a 50 mg
28 dose of Demerol for administration to Patient #4225801. Respondent failed to document or

1 otherwise properly account for the disposition of the 50 mg dose of Demerol in any hospital or
2 patient record.

3 d. Patient C (#4224374). On or about July 13, 2004, at approximately 1330 hours,
4 Respondent obtained a 2 mg dose of Dilaudid for administration to Patient #4224374.
5 Respondent failed to document or otherwise properly account for the disposition the 2 mg dose
6 of Dilaudid in any hospital or patient record.

7 e. Patient B (#4198586). On or about July 14, 2004, at approximately 0700 hours, in
8 contravention of physician orders directing that Demerol not be administered to the patient until
9 the discontinuation of the patient's Epidural, Respondent obtained a 75 mg
10 dose of Demerol for administration to Patient #4198586. Patient #4198586's Epidural was
11 not discontinued until approximately 1245 hours. Respondent failed to document or otherwise
12 properly account for the disposition the 75 mg dose of Demerol in any hospital or patient record.

13 SECOND CAUSE FOR DISCIPLINE

14 (Wrongfully Obtaining Controlled Substances)

15 16. Respondent's license is subject to discipline for unprofessional conduct under
16 Code section 2762, subdivision (a), in that on multiple occasions during July 2004, while on duty
17 at South Coast Medical Center, Respondent obtained Morphine, Demerol, and Dilaudid by fraud,
18 deceit, misrepresentation, or subterfuge, or by the concealment of material facts, in violation of
19 Health and Safety Code section 11173, subdivision (a), as more particularly set forth under
20 paragraph 15, above.

21 THIRD CAUSE FOR DISCIPLINE

22 (Wrongful Possession of Controlled Substances)

23 17. Respondent's license is subject to discipline for unprofessional conduct under
24 Code section 2762, subdivision (a), in that on multiple occasions during July 2004, while on duty
25 at South Coast Medical Center, Respondent wrongfully possessed Demerol and Dilaudid without
26 a valid prescription therefor, in violation of Code section 4060.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Wrongful Self-Administration of Controlled Substances)**

3 18. Respondent's license is subject to discipline for unprofessional conduct under
4 Code section 2762, subdivision (a), in that on multiple occasions during July 2004, while on duty
5 at South Coast Medical Center, Respondent wrongfully self-administered Demerol and Dilaudid
6 without the direction of a licensed physician, surgeon, dentist, or podiatrist.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Dangerous or Injurious Use of Controlled Substances)**

9 19. Respondent's license is subject to discipline for unprofessional conduct under
10 Code section 2762, subdivision (b), in that on multiple occasions during July 2004, while on duty
11 at South Coast Medical Center, Respondent used Demerol and Dilaudid to such an extent or in
12 such a manner as to be dangerous or injurious to Respondent, any other person, or to the public,
13 or to such an extent that such usage impaired Respondent's ability to conduct with safety to the
14 public the practice authorized by her license.

15 **PRAYER**

16 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein
17 alleged, and that following the hearing the Board issue a decision:

18 1. Revoking or suspending Registered Nurse License Number 426962,
19 issued to Kim Kimberly Jean Saal Bursk, also known as Kim Jean Saal, also known as Kimberly
20 Jean Bursk;

21 2. Ordering Kim Kimberly Jean Saal Bursk, also known as Kim Jean Saal, also
22 known as Kimberly Jean Bursk to pay the reasonable costs incurred by the Board in
23 the investigation and enforcement of this case pursuant to Code section 125.3; and

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1 3. Taking such other and further action as deemed necessary and proper.

2 DATED: 4/10/07

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RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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